

Inconsistence of Self Assessment Principles Implementation in Indonesian Tax Law

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Abstract—In 1983, Indonesia made tax reforms by substituting official assessment principles and applying the self-assessment principle in the tax collection system. Self Assessment principle is a tax collection system that gives trust to Taxpayers to calculate, deposit, and self-report the tax payable to the tax authorities (Government). In the amendment of Law Number 6 Year 1983 on General Provisions and Procedures of Taxation (also known as UU KUP), self-assessment principle is not consistently adopted, so that it creates a contradiction in its application. The concept of the provision and procedure of interest payment is not regulated in accordance with the principle of self-assessment, as the requirement for the reimbursement of tax overpayment shall be examined by the tax authorities and the tax authorities shall issue tax assessment letters to determine the indebted tax. The provisions and procedures for giving interest payments to a Taxpayer are determined by a tax assessment letter that has been paid which results in an overpayment of taxes. Interest payments are not calculated on the basis of tax overpayment in the Notice. The application of norms governing interest payments and sanctions in the form of interest in UU KUP is not regulated equally between tax authorities and taxpayers. Therefore, the rights and obligations of the Taxpayer in UU KUP cannot be met.

Keywords— Self Assessment, Taxpayer's Rights, Interest Rewards.

I. INTRODUCTION

Article 23A of the 1945 Constitution of the State of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) states, "Taxes and other charges that compel the state are governed by law".¹ taxes with conditions must first be regulated by law.

In 1983, Indonesia made tax reforms by replacing the colonial inheritance tax law with the new national tax law. The national tax law stipulated is Law Number 6 year 1983 on General Provisions and Procedures of Taxation, Law Number 7 year 1983 on Income Tax, and Law No. 8 on Value Added Tax on Goods and / or Services and Taxes Sale of Luxury Goods. All the three laws came into force in 1984.

The new national tax laws adopt a tax collection system based on self-assessment principles.²The tax collection system based on self-assessment principle is a tax-making process which by law is surrendered entirely to the Taxpayer to calculate, deposit and report any tax payable in accordance with the provisions of the taxation laws.³

The change official assessment principle to the self-assessment principle in tax collection aims to realize the

¹Elucidation of the Constitution of the State of Indonesia: Due to the stipulation of expenditure on the right of the people to determine their own destiny, any action which places the burden on the people, as taxes and others, shall be stipulated by law that is with the consent of the People's Legislative Assembly.

²The tax law which inherited by the Colonialist uses a tax collection system based on the official assessment principle, which is the taxpayer who calculates and imposes tax payable.

³Elucidation of Law of the Republic of Indonesia Number 6 Year 1983 on General Provisions and Procedure of Taxation, item 3 letter c: Taxpayer community members are entrusted to be able to carry out national cooperation through the system of summarizing, calculating, and paying the tax by themselves, so through this system the implementation of tax administration is expected to be implemented with a more tidy, controlled, simple and easy way to be understood by members of the taxpayer community.

expansion and increase of taxation liability awareness and increase voluntary compliance of taxpayers to fulfill their tax obligations as the implementation of service to the state.⁴ In addition, the current system of taxation is no longer appropriate to the level of socio- economic life of Indonesian society both in the spirit of national cooperation and in the pace of national development.

In its development to date, Law Number 6 year 1983 on General Provisions and Tax Procedures has been amended four times (hereinafter also known as UU KUP). One of the provisions and procedures of taxation as stipulated in UU KUP is the provision and procedure of giving interest payments to the Taxpayer.

Initially in UU KUP, the interest payment provision for the Taxpayer is only stipulated in Article 11 paragraph (2) and paragraph (3) of Law of the Republic of Indonesia Number 6 year 1983 on General Provisions and Procedures of Taxation (hereinafter also referred to UU KUP 1983).⁵ In the amendment to UU KUP 1983, the provision of return of tax overpayment and giving of interest to Taxpayer also changed. Taxpayers applying for the reimbursement of tax overpayments shall be examined by the tax authorities and the tax authorities shall issue tax assessments,⁶ except for taxpayers who meet certain criteria,⁷ and taxpayers who meet certain requirements.⁸

Taxpayers applying for the overpayment of taxes in the Tax Return (also referred as SPT) shall be examined by the

⁴See point 3 in the Elucidation of UU KUP 1983.

⁵Article 11 Paragraph (3) of UU KUP 1983: If the refund of tax overpayment is made after a period of one month, the Government shall give 2% (two percent) month interest on the late payment of tax overpayment, calculated from the due date of the time limit as referred to in paragraph (2) until the excess payment is made.

⁶See Article 17B paragraph (1) of UU KUP.

⁷See Article 17C paragraph (2) of UU KUP.

⁸See Article 17D paragraph (2) of UU KUP.

tax authorities as provided in Article 17B paragraph (1) of UU KUP. Article 17B paragraph (1) of UU KUP is inconsistent with self-assessment principle as stipulated in Article 12 of UU KUP. Article 12 Paragraph (2) of UU KUP stipulates, "The amount of tax payable according to the Notice Submitted by the Taxpayer is the amount of tax payable in accordance with the provisions of the taxation laws." If the Director General of Taxes can obtain evidence of tax due under the Letter Incorrect notification, the Director General of Taxes determines the amount of tax payable.⁹ Therefore, the Taxpayer applying for the refund of tax overpayment in the Notice shall be deemed correct, unless the taxpayer receives proof of improper Notice.

The provisions governing the application for the reimbursement of tax overpayments shall be examined by the tax authorities and shall issue tax assessment letters to determine the amount of tax payable as the official assessment principle.¹⁰ This raises disharmony in the amendment of UU KUP 1983 which can create a contradiction in the tax collection system in Indonesia.

In the event that the tax assessment letter¹¹ that issued by the tax authorities is incorrect based on an objection decision, appeal decision, or a review judgment, the tax refund is returned to the Taxpayer. Article 27A Paragraph (1) of UU KUP, among others, states that as long as the accrued taxes as referred to in the tax assessment letters which have been paid, cause the overpayment of tax refunds shall be given a 2% (two percent) interest per month.¹²

The provisions of Article 27A Paragraph (1) of UU KUP may be interpreted as giving interest only to tax assessments already paid, while the tax overpayment in the Notice Letter¹³ granted partially or wholly in the objection, appeal or review decision is returned and not paid interest to the Taxpayer. The provision of Article 27A Paragraph (1) of UU KUP which regulates interest payment based on the tax assessment letter is the official assessment principle. Therefore, the provision of Article 27A paragraph (1) of UU KUP is a legal construction which is not in accordance with the principle of self-assessment.

II. RESEARCH METHOD

Abdul Kadir Muhammad said that normative legal research examines the laws that are conceptualized as norms or rules that apply in society in the form of written law which is viewed from aspects of philosophy, theory, history, comparison, structure, composition, scope, material, consistency, general explanation, Article by Article, the binding force of a law, and the legal language used, but does

not examine the aspects of its implementation.¹⁴ Soerjono Soekanto argues that normative legal research includes: research on legal principles, legal system, legal synchronization level, legal history, and comparative law.¹⁵

This research uses normative juridical research method with legal approach, conceptual approach, and case approach. Primary legal materials, secondary law materials, and tertiary legal materials related to the object of this study were collected and analyzed. The analysis of legal materials was carried out using logic based on the nature of tax reforms conducted in 1983 which replaced the official assessment principles and applied the self-assessment principles in the tax collection system in Indonesia.

III. RESULTS AND DISCUSSION

The philosophy of self-assessment principle is laid on the effort to find equality and balance between Taxpayers with tax authorities in tax collection. In the estimation, the term self-assessment consists of two English words, the word self which means itself, and assessment which means to assess, calculate, measure. Thus, the sense of self-assessment is to calculate and self-assess. So, Taxpayers themselves is the party who calculate and assess the fulfillment of higher tax obligations.¹⁶

Self-assessment principle in tax collection system is a tax collection system that gives trust to Taxpayers to fulfill and carry out their own obligations and taxation rights. Tax obligations include: enrolling in the tax service office to obtain a Taxpayer Identification Number (known as NPWP), calculating and/or taking into account the amount of tax payable, depositing the tax to the state treasury, and reporting the deposit to the tax authorities, owed by filling the Notification Letter properly and correctly.¹⁷

While the rights of Taxpayers include: a. the right to information, assistance and hearing of his complaints; b. the right to pay only taxes that ought to be owed in accordance with the provisions of legislation and nothing more than it should be; c. the right to obtain legal certainty; d. the right to guarantee no violation of the taxpayer's personal rights; and e. the right to confidentiality.¹⁸

In Indonesia, the implementation of self-assessment principle has come into force since 1984 through the enactment of UU KUP 1983. The implementation of self-assessment principle is clearly mentioned in Article 12 of UU KUP 1983. Article 12 of UU KUP 1983 states that "Every Taxpayer is obliged to pay the indebted tax according to the regulation tax legislation, by not relying on a Tax Assessment Letter."

Principle of self-assessment as regulated in Article 12 of UU KUP 1983, the Taxpayer pays the indebted tax under the

⁹See Article 12 paragraph (3) of UU KUP.

¹⁰In accordance with the formal teaching, the tax payable arises because of the official assessment, while according to the material teaching, the tax payable arises because of the regulations of the taxation (self assessment).

¹¹Tax assessment letters may be a Tax Underpayment Letter or an Additional Tax Underpayment Letter issued by the tax officer to the taxpayer's overpayment application filed by a Taxpayer in an Overpayment Tax Notice Letter.

¹²See Article 27A paragraph (1) of UU KUP.

¹³See Article 12 paragraph (2) of UU KUP.

¹⁴Abdul Kadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: PT Citra Aditya, 2004), pg. 51.

¹⁵Soejono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: Penerbit Universitas Indonesia, 2010), pg. 51.

¹⁶S. Nurmantu, *Pengantar Perpajakan*, (Jakarta: Granit, 2005), pg. 108.

¹⁷Id.

¹⁸Stuart Hamilton, *Putting the Client First: The Emerging Copernican Revolution of Tax Administration*, *Tax Notes International*, 2003, pg. 571-572, as cited by Danny Darussalam, *Peningkatan Kepatuhan Wajib Pajak Melalui Komite Pengawas Perpajakan*, <http://www.dannydarussalam.com>, accessed on 25 November 2016.

taxation laws. Judging from the substance of Article 12 of UUKUP 1983, it appears that responsive legal categories are reflected in those provisions. Tax collection based on self-assessment principle seeks to provide a sense of justice to the Taxpayer by calculating, depositing, and reporting his own tax obligations.

Taxpayers experiencing underpaid taxes must pay in full before the Notice Letter is submitted by the Taxpayer.¹⁹ If a Taxpayer makes a payment or deposit of unpaid taxes after the due date of payment or tax payment, the Taxpayer shall be liable to administrative sanctions in the form of interest of 2% (two percent) per month.²⁰

Conversely, if the taxpayer has overpaid the tax reported in the Notice Letter, the Taxpayer may apply for the refund of tax overpayment through the Notice of Income delivered or by a separate application letter.

The Director General of Tax after conducting a research or examination shall issue a Tax Overpayment Decree or Proclamation Letter within a maximum period of twelve months from the receipt of the application.²¹ The refund of tax overpayment is made within one month after the Assessment Letter is issued.²² If the refund of tax overpayment is made after a period of one month, the Government shall pay interest at the rate of 2% (two percent) per month to the late payment of tax overpayment.²³

The position of the Taxpayer is relatively more balanced with the taxpayer because the calculation of tax payable is based on the calculation of the Taxpayer, not the tax calculation, so it can avoid unilateral coercion²⁴ from the tax authorities in determining the tax payable. On the other hand, Taxpayers are required to be honest in calculating their taxes by referring to tax laws and regulations.²⁵

In its development to date, the UU KUP 1983 has been amended four times. The first amendment of the UU KUP 1983 was adopted in 1994 with Law No. 9/1994 on Amendment to Law No. 6/1983 on General Provisions and Procedures for Taxation (hereinafter referred to as UU KUP 1994).

UU KUP 1994 is intended to maintain the principle of self-assessment in tax reform in 1983, which includes: (a) simple, meaning that both parties (Taxpayers and tax authorities) can exercise their rights and obligations easily and cheaply; (b) the principle of equity and fairness in the tax burden to be borne; (c) legal certainty for both parties (Taxpayers and fiscus); (d) cover or reduce the opportunities for tax-smuggling and abuse of authority; (e) neutrality in taxation to safeguard the Taxpayer's natural behavior; and (f) may be used as

additional instruments to encourage economic development in a particular sector or region.²⁶

Construction of overdraft tax refund arrangement and rewards to Taxpayers changes has experienced through. Under UU KUP 1994, there are amendments and additional provisions concerning the reimbursement of tax overpayments and additional provision of interest payments to the Taxpayer.²⁷

Taxpayers who submit over payment tax notices may apply for a refund of excess tax. Taxpayers who apply for the refund of tax overpayment under the submitted Notice Letter must be examined by the tax authorities and the tax authorities must issue tax assessment letters.²⁸

If the Taxpayer does not agree with the contents of the tax assessment letter issued by the tax authorities, the Taxpayer may file an objection to the Director General of Taxes. The Taxpayer must file an objection within 3 (three) months from the date of the assessment letter.²⁹ The filing of the objection does not delay the obligation to pay taxes and the execution of tax collection.³⁰

The Director General of Taxes within a maximum period of 12 (twelve) months shall issue a decision on the received objection. If within a period of 12 (twelve) months, the Director General of Taxes has not issued a decision, the Taxpayer objection application shall be deemed accepted.³¹

If the result of objection in the Decision Letter of the Director General of Taxes is not approved by the Taxpayer. The taxpayer may file an appeal only to the Tax Court.³² An appeal must be filed for a clear reason within 3 (three) months from receipt of the decision.³³

In UU KUP 1994, also made changes to the provision of interest payments to the Taxpayer. The terms of interest payments are divided into two kinds of circumstances.

The first circumstance, the payment of interest due to the delay in the refund of tax overpayment to the Taxpayer. Second circumstance, the payment of interest due to the Taxpayer filing an appeal or appeal against a tax assessment letter.³⁴

The addition of Article 17B of UU KUP 1994 and Article 27A of UU KUP 1994 are not in accordance with the "principle of conformity", as regulated in Article 5 letter c of Law Number 12 Year 2011 concerning the Establishment of Legislation. The provisions of Article 17B and Article 27A of UU KUP which must really take care of the content material which is in accordance with self-assessment principle whose application of principles is regulated in Article 12 of UU KUP 1994.

The second amendment of UU KUP 1983 was adopted in 2000 with the enactment of Law No. 16/2000 on the Second

²⁶Fuad Bawazier, Reformasi Pajak di Indonesia, Jurnal Legislasi Indonesia, Vol. 8 No. 1, (Jakarta: Direktorat Jenderal Peraturan Perundang-undangan Kementerian Hukum dan HAM RI, 2011), pg. 4.

²⁷See Article 17B of UU KUP 1994 and Article 27A of UU KUP 1994.

²⁸See Article 17B paragraph (1) of UU KUP 1994.

²⁹See Article 25 paragraph (3) of UU KUP.

³⁰See Article 25 paragraph (3a) of UU KUP.

³¹See Article 26 paragraph (1) of UU KUP.

³²See Article 17 paragraph (1) of UU KUP.

³³See Article 27 paragraph (3) of UU KUP.

³⁴See Article 27A of UU KUP 1994.

¹⁹See Article 9 paragraph (2) of UU KUP 1983.

²⁰See Article 9 of UU KUP 1983.

²¹See Article 17 paragraph (1) of UU KUP 1983.

²²Article 11 paragraph (2) of UU KUP 1983.

²³Article 11 paragraph (3) of UU KUP 1983.

²⁴Tax collection in coercive.

²⁵UU KUP also regulates tax sanctions including criminal sanctions if the Taxpayer does not honestly report the tax payable in accordance with the provisions of legislation.

Amendment of Law No. 6/1983 on General Provisions and Procedure for Taxation (hereinafter referred to as UU KUP 2000). Under UU KUP 2000, the provision for the reimbursement of tax overpayments is also amended and there are additional new provisions.

The provisions governing the application for the refund of overpaid tax are differentiated between the Taxpayer who does not meet certain criteria and the Taxpayer who has certain criteria. Taxpayers who meet certain criteria, the application for the refund of tax overpayment shall not be examined by the tax authorities.³⁵ The Director General of Taxes after conducting a research on the application for the refund of tax overpayment by a Taxpayer under certain criteria, shall issue a Tax Returns Decision no later than 3 (three) months after receipt of the application for Value Added Tax.

The provisions of Article 27A of UU KUP 1994 are also changed to only the Taxpayer filing a remedy against a Tax Underpayment Assessment Letter and or an Additional Paid Tax Assessment Letter which resulted in an overpayment of the tax provided by the interest payment.³⁶ This provision reaffirms the tax assessment letters issued by the taxpayer against the application for the refund of tax overpayment in the form of an underpayment tax assessment letter and an additional underpayment assessment letter. Therefore, Taxpayers who are examined by the tax authorities may be issued an Underpayment Tax Assessment Letter and Additional Tax Underpayment Letter. Notification Letter submitted by the Taxpayer is not considered true.³⁷

The third amendment of UU KUP 1983 was made in 2007 with the stipulation of Law Number 28 Year 2007 regarding Third Amendment of Law Number 6 Year 1983 regarding General Provisions and Procedure of Taxation (hereinafter referred to as UU KUP 2007). Then on December 31, 2008, the Government issued Government Regulation in Lieu of Law no. 5 year 2008 on the Fourth Amendment to Law Number 6 Year 1983 on General Provisions and Tax Procedures (hereinafter referred to as Perppu No. 5 Year 2008).

Perppu No. 5 year 2008 only regulates the amendment of Article 37A paragraph (1) of UU KUP 2007. Furthermore, Perppu No. 5 year 2008 was ratified by the People's Legislative Assembly as Law No. 16 of the Fourth Amendment to Law Number 6 year 1983 on General Provisions and Procedures for Taxation into Law (hereinafter referred to as the Law on KUP).³⁸

Under the Law on KUP, the provision for the reimbursement of tax overpayments is also amended and there are additional new provisions. Taxpayers who apply for the

refund of tax overpayment are divided into three types, namely Taxpayers who do not meet certain criteria and do not meet certain requirements, Taxpayers with certain criteria, and Taxpayers who meet certain requirements.³⁹

For taxpayers with certain criteria and Taxpayers who meet certain requirements, the application for the refund of tax overpayment should not be examined by the tax authorities.⁴⁰ The Director General of Taxes after conducting a research, issue a Decree on the Refund of Preliminary Tax Excess. Whereas, for a Taxpayer who does not meet certain criteria and certain requirements, the application for the refund of tax overpayment shall be examined by the tax authorities.⁴¹

The provision of interest payments for Taxpayer is changed to six kinds of circumstances, namely: (1) delay in the refund of tax overpayment;⁴² (2) delay in issuance of Tax Overpayment Letter;⁴³ (3) delay in issuance of Tax Overpayment Letter;⁴⁴ (4) an overpayment of taxes due to the filing of an objection or an appeal or a review;⁴⁵ (5) tax overpayment due to Decision of Conclusion, Decision of Tax Decrease or Decree of Cancellation of Tax Assessment on tax assessment letter or tax refund letter;⁴⁶ and (6) an overpayment of administrative sanctions in connection with the filing of an objection or appeal against a tax assessment letter.⁴⁷

As described above, after the 1983 tax reform, changes for changes in UU KUP continue to be carried out with the main objective being the Government's legal policy to increase state revenues from the tax sector. Therefore, the provisions of the 1983 Criminal Law which have the potential to reduce state revenues are constantly amended, among others, are provisions concerning the giving of interest payments to the Taxpayer.

Construction in the amendment of Act of CWT 1983 concerning the application for the refund of tax overpayment and the provision of interest payments to the Taxpayer raises inconsistency in applying the self assessment principle as stipulated in Article 12 of UU KUP.⁴⁸ Article 12 of UU KUP stipulates:

- (1) Every Taxpayer shall pay the tax payable in accordance with the provisions of the tax laws and regulations, with no rely on the existence of tax assessment letters.
- (2) The amount of tax due under the Notice Letter submitted by the Taxpayer is the amount of tax payable in accordance with the provisions of the taxation legislation.
- (3) If the Director General of Taxes obtains evidence that the amount of tax payable under the Notice Letter as referred

³⁹See Article 17, 17A, 17B, 17C, and 17D of UU KUP.

⁴⁰See Article 17C paragraph (1) of UU KUP and Article 17D paragraph (1) of UU KUP.

⁴¹See Article 17B paragraph (1) of UU KUP.

⁴²See Article 11 paragraph (3) of UU KUP.

⁴³See Article 17B paragraph (3) of UU KUP.

⁴⁴See Article 17B paragraph (4) of UU KUP.

⁴⁵See Article 27A paragraph (1) of UU KUP.

⁴⁶See Article 27A paragraph (1a) of UU KUP.

⁴⁷See Article 27A paragraph (2) of UU KUP.

⁴⁸In the amendment of UU KUP post the tax reformation in 1983, there are additional Article 17B in UU KUP and Article 27A in UU KUP which resulted the tax payable in the SPT is not considered as correct and the taxpayer who applied for the overpayment of tax shall be examined by the tax authorities.

³⁵See Article 17C of UU KUP 2000.

³⁶See the Elucidation of Article 27A of UU KUP 2000.

³⁷Article 12 paragraph (2) of UU KUP 2000.

³⁸Perppu No. 5 Year 2008 only amend Article 37A paragraph (1) of UU KUP 2007 to read "Taxpayers submitting the Annual Income Tax Annual Income Tax Formalization prior to 2007, which resulted in the accrued tax being greater and done no later than February 28, 2009, may be deducted or abolished from administrative sanctions in the form of interest on late repayment of the underpayment of taxes whose provisions are governed by or under the Regulation of the Minister of Finance. "

to in paragraph (2) is incorrect, the Director General of Tax stipulates the amount of tax payable.

Article 12 of UU KUP confirms that the determination of tax payable submitted by the Taxpayer in the Notice Letter (SPT) is the amount of tax payable in accordance with the provisions of tax laws. Therefore, the Director General of Taxes is not obliged to issue tax assessment letters⁴⁹ on Tax Returns (SPT) submitted by Taxpayers.

Issuance of tax assessment letters is limited to certain Taxpayers caused by the Director General of Taxes who finds evidence of impropriety in the Notice Letter submitted by the Taxpayer, or based on the result of the examination that the tax calculation owed by the Taxpayer reported in the Notice Letter is inconsistent with the provisions of the tax laws.

In the event that the Director General of Taxes obtains evidence showing the tax calculation payable in the Notice Letter submitted by the Taxpayer incorrectly, then the tax authorities may make corrections by issuing tax assessment letters.⁵⁰ In other words, the implementation of the self-assessment principle transferred the burden of proof to the taxpayer, the Taxpayer is considered correct until the tax authorities get evidence of tax errors made by the Taxpayer in the submitted Notice Letter.

The implementation of self-assessment principles in Article 12 of UU KUP should be consistent in the law on KUP. A taxpayer who submits an underpayment notice must pay in full before the Notice is delivered.⁵¹ In the event that a Taxpayer makes payment or deposit of tax after the due date of delivery of Notice Letter, the Taxpayer shall be liable to administrative sanction in the form of interest of 2% (two percent) per month.⁵²

In contrast, a Taxpayer submitting an overpayment letter (SPT) may apply for a refund of tax overpayment.⁵³ Taxpayers applying for the refund of tax overpayments shall be examined by the tax authorities and the tax authorities shall issue tax assessments,⁵⁴ excluding taxpayers who meet certain criteria,⁵⁵ or certain requirements.⁵⁶ Fiscus must issue a tax assessment letter⁵⁷ no later than 12 (twelve) months from the date of receipt of the complete application.

The provision of Article 17B paragraph (1) of UU KUP which requires the examination of the overpayment and tax filing must issue tax assessment letters is a provision which does not accommodate the trust given to the Taxpayer to self-assess the tax payable. Article 12 paragraph (2) of UU KUP, the amount of tax payable submitted by the Taxpayer in the Notice shall be the amount of tax payable in accordance with

the provisions of the law. Therefore, the Notice Letter submitted by the Taxpayer must be deemed true, unless the tax authorities get evidence indicating the amount of tax payable in the Notice Letter is incorrect.⁵⁸

The inspection action conducted by the tax authorities to determine the tax payable by issuing tax assessment letters against the Notice submitted by the Taxpayer is the principle of official assessment. The tax payable is determined by the fiscal act of issuing tax assessment letters.⁵⁹ In the event that the tax assessment letter issued by the tax authorities is not approved by the Taxpayer, the Taxpayer may file an objection, appeal, and request for a review.

Tax assessment letters issued by tax authorities do not guarantee the true calculation of tax payable in accordance with the laws and regulations of taxation.⁶⁰ Romli Atmasmita states, "in the practice of tax court exactly 80% of the tax court judgment has granted the appeal and ordered the obligation to the state to carry out payment to the Taxpayer."⁶¹

In Article 27A paragraph (1) of UU KUP mentioned:

"If the objection, appeal or review request is granted partially or wholly, in the case of the accrued tax as referred to in the Letter of Tax Underpayment, Additional Paid Tax Assessment Letter, Tax Assessment Letter of Nil, and Tax Overpayment Letter which has been paid causes an overpayment of the tax, the overpayment shall be refunded plus an interest payment of 2% (two percent) per month for a maximum of 24 (twenty four) months under the following conditions:

(a) for the assessment Letter of Tax Underpayment and Additional Tax Underpayment Letter shall be calculated from the date of payment resulting in tax overpayment until the issuance of the Decision Letter, Appeal Decision, or Review Judgment; or (b) for Nil Tax Assessment Letter and Tax Overpayment Letter shall be calculated from the date of issuance of tax assessment letters up to the issuance of Decision Letter of Appeal, Appeal Or Judicial Review."

The construction of the taxpayer's right of interest in Article 27A paragraph (1) of UU KUP is inconsistent with the principle of self-assessment because the basis for calculating the interest payment is determined on the overpayment of taxes laid down in the tax assessment letters, not on the excess payment of taxes already paid by the Taxpayer causing an overpayment of taxes.

Therefore, the provision of Article 27A Paragraph (1) of UU KUP is contradictory. Contradictive occurs in the event that the tax authorities issue an assessment letter of

⁴⁹Article 1 number 15 of UU KUP stipulates "Tax assessment letter is an assessment letter covering the Assessment Letter of Underpayment Tax, Additional Tax Underpayment Letter, Tax Assessment Letter, or Assessment Letter of Overpayment Tax.

⁵⁰See Article 13 of UU KUP.

⁵¹See Article 9 paragraph (2) of UU KUP.

⁵²See Article 9 paragraph (2b) of UU KUP.

⁵³Article 11 paragraph (1) of UU KUP.

⁵⁴See Article 17B paragraph (1) of UU KUP.

⁵⁵See Article 17C of UU KUP.

⁵⁶See Article 17D of UU KUP.

⁵⁷Article 1 number 15 states "Tax assessment letters are statutes covering Underpayment Tax Assessment Letter, Additional Income Tax Assessment Letter, Nil Tax Assessment Letters, or Overpayment Tax Letter.

⁵⁸See Article 12 paragraph (3) of UU KUP.

⁵⁹The formal doctrine in the concept of tax debt is in the principle of official assessment, while the principle of self assessment adheres to the material doctrine, that is the payable tax is according to the provisions of the tax laws and regulations, not according to tax assessment letters.

⁶⁰Fiscus may issue an underpayment tax assessment letter for an overpayment tax return.

⁶¹Romli Atmasmita, Imbalan Bunga Pajak, <https://nasional.sindonews.com>, accessed on 06 December 2014.

underpayment tax on the application of tax overpayment filed by the taxpayer in the overpayment notice.

In the event that the tax authorities issue an assessment letter of tax underpayment and the taxpayer filed an objection, an appeal, or a request for judicial review. The decision of the objection or appeal is granted partly or wholly, the interest paid on the underpaid Tax Assessment Letter has led to an overpayment of taxes. While the tax overpayment granted in the objection or appeal decision may be interpreted as not being paid interest.⁶²

Inconsistencies in the application of self-assessment in UU KUP may result in contracts in its application. Taxpayers who are overpaid by taxes are treated unbalanced with taxpayers who are underpaid by taxes. Therefore, the principle of the right and obligation of the Taxpayer cannot be realized in UU KUP.

IV. CONCLUSION

As stated in the above description, changes in UU KUP have created inconsistencies in applying self-assessment principle in the tax collection system in Indonesia. At the time of tax reform in 1983, the rules and procedures of taxation were consistently regulated in UUKUP based on self-assessment principles.

After the tax reform in 1983, Indonesia made four changes of UU KUP which started the first change in 1994 and the fourth change was made in 2009. In the amendment of UU KUP, the provisions and procedure of the application for the refund of tax overpayment and giving of interest to the Taxpayer is not accommodate the trust given to the Taxpayer to self-assess the tax payable under the taxation laws.

Taxpayers who experience tax overpayment due to tax calculations made under the tax laws and regulations result in the amount of tax already paid more than the tax payable. The taxpayer applying for the refund of the overpayment of taxes shall be examined by the tax authorities and the tax authorities shall issue tax assessments. In addition, the procedure for calculating interest payments is based on a tax assessment letter that has been paid which causes the tax overpayment not based on the tax overpayment filed in the Notice.

Whereas, in the case of Taxpayers experiencing a lack of tax payments, the Taxpayer shall pay off before the Notice Letter is submitted. If payment of unpaid taxes is made after the due date of payment or tax payment, the Taxpayer shall be liable to administrative sanctions in the form of interest.

The norms governing interest payments and sanctions in the form of interest in UU KUP are not equivalent between tax authorities and taxpayers. Therefore, the rights and obligations of the Taxpayer in UU KUP cannot be realized.

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⁶²See Article 11 paragraph (2) and Article 17B paragraph (2) of UU KUP, those referred as the Assessment Letter of Overpayment Tax that has been issued.